

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff/Respondent,

v.

ORDER

Crim. No. 06-173 (MJD)

Malik Al-Mustafa El-Alamin,
a/k/a Eric Britten,

Defendant/Petitioner.

LeeAnn K. Bell, Assistant United States Attorney, Counsel for
Plaintiff/Respondent.

Defendant/Petitioner on his own behalf.

On April 25, 2007, a jury found Petitioner guilty of Count 1, possession with intent to distribute crack cocaine, and Count 2, felon in possession of a firearm. [Docket No. 136]

On November 28, 2007, the Court sentenced Petitioner to 262 months in prison. [Docket Nos. 162, 163] Petitioner's conviction and sentence were affirmed on appeal. See United States v. El-Alamin, 574 F.3d 915 (8th Cir. 2009).

On June 27, 2016, Petitioner filed the instant motion for relief pursuant to 28 U.S.C. § 2255, on the grounds that he was improperly sentenced as a career

offender under Johnson v. United States, 135 S. Ct. 2551 (2015). [Docket No. 283]

At the same time, Petitioner filed a motion to hold the decision in abeyance pending the Eighth Circuit's decision on his request for permission to file a successive petition pursuant to § 2255(h), which requires that all successive motions be certified by a panel of the appropriate court of appeals. [Docket No. 284.]

The Eighth Circuit has since denied the petition to file a successive habeas application in the district court. [Docket No. 292] Because the Petitioner does not have permission to file a successive habeas application, this Court does not have jurisdiction to review the current petition. Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion to Vacate Sentence [Doc. No. 283] is DENIED for lack of jurisdiction. The Motion to Hold Decision in Abeyance [Docket No. 284] is dismissed as moot, and the Government's Motion to Dismiss [Docket No. 291] is dismissed as moot.

Date: April 11, 2017

s/ Michael J. Davis

Michael J. Davis

United States District Court